

## **REMARKS**

In the Office Action mailed January 26, 2006, the Examiner rejected claims 1-4, 8-21, and 25-34 under 35 U.S.C. § 103(a) as being unpatentable over the article "Secrets of Using the Map of the Market" ("Wattenberg") in view of U.S. Patent No. 5,774,878, ("Marshall"). The undersigned has reviewed the January 26, 2006 Office Action and respectfully traverses all rejections for the reasons set forth herein.

The undersigned's Remarks are preceded by related comments of the Examiner, presented in small bold-faced type font.

### **Claim Rejections – 35 USC § 103**

1) Claims 1 - 4, 8 - 21 and 25 - 34 rejected under 35 U.S.C. 103(a) as being unpatentable over an article "Secrets of Using the Map of the Market" hereinafter known as Wattenberg in view of Marshall US Patent 5,774,878.

Regarding claims 1 and 18, Wattenberg teaches system and method for displaying the status of a financial indicator, said financial indicator representing financial activity, said financial indicator including a plurality of sectors and each of said sectors including a plurality of financial instruments. Wattenberg does not teach using a geographic orientation in a particular geographic region. However, Marshall teaches using a geographic orientation in a particular geographic region [Marshall, Fig. 3a – 3d and disclosure associated with the figures]

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wattenberg as taught by Marshall to allow money managers and financial analysts to easily view otherwise unmanageable amounts of complex information and in particular, financial information about financial markets such as information about equities, commodities, currencies, derivatives and their related markets.

Wattenberg in view of Marshall teaches capability for:

displaying a map, said map including said geographic region; and

simultaneously displaying on said geographic region of said map a visual indicator that represents the status of said financial indicator, each of said sectors and each of said financial instruments, wherein each of said plurality of sectors has a size and weighting in the financial indicator, wherein said size of said plurality of sectors is proportional to said weighting of each of said plurality of sectors, respectively.

Applicants respectfully traverse the Examiner's rejection. As the MPEP recites:

*"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."*

Applicant respectfully submits that the Examiner has not established a *prima facie* case of obviousness because (a) there is no motivation to modify or combine the reference teachings and (b) even if the references were combined, none of the prior art references, alone or in combination, describe or suggest all of the claimed limitations of the present invention.

(a) There is no motivation to modify or combine the reference teachings:

The MPEP states:

*"There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the arts." In re Rouffet, 149 F.3d 1350, 1357, 47 U.S.P.Q.2d 1453, 1457-58 (Fed. Cir. 1998).*

None of these three possible sources have been demonstrated in the Office Action dated January 26, 2006. Neither Wattenberg nor Marshall provide a suggestion or motivation to combine each other. The only grounds offered by the Examiner for combining the cited references is "it would have been obvious to one of ordinary skill in the art at the time the invention was made" (present Office Action, page 3). A blanket statement concerning "one with ordinary skill in the art" is a highly subjective and unsubstantiated statement that does not meet the Examiner's obligation to succinctly establish a *prima facie* case of obviousness. The Federal Circuit has held that it is inappropriate to rely solely on 'common sense' or 'basic knowledge' in the art as the principal evidentiary basis for a rejection, without evidentiary support in the record. MPEP § 2144.03(B) (citing *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2002) ("holding that general conclusions concerning what is 'basic knowledge' or 'common

sense' to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection.”)).

Thus, Applicant respectfully submits that it would not have been obvious to combine Marshall – a virtual reality rendering of financial information -- with Wattenberg – a sector map of stock information. As the MPEP notes:

*“The tendency to resort to “hindsight” based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.”; and*

*“When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:(...)*

*(C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention (...) Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986). ”*

In the Background section of the Application, Applicant describes the deficiencies in the heatmaps of the prior art, such as those disclosed in Wattenberg, since they do not present financial information in a geographic manner, thereby placing traders at a disadvantage. Part of Applicant's invention is to create a method that increases the effectiveness of the traders in spotting trends, so that any delay in the traders being able to assimilate vital information can be avoided. There is no suggestion in Wattenberg to use or add geographic information. Marshall's virtual reality generator, in fact, teaches away from Applicant's invention, among other reasons, because it involves a high level of abstraction in the display and management of information, and it could not possibly increase the effectiveness of the traders in spotting financial trends as Applicant intends, but rather decrease it. The undersigned respectfully submits that a conclusion of the “obviousness” should be supported by some objective evidence. However, the Examiner has provided no objective support for his conclusion. The undersigned submits that this appears to be a case in which the Examiner's conclusion of “obviousness” is merely based on an

application of hindsight reasoning gained by the Examiner's review of the present application. Such hindsight reasoning is impermissible.

(b) Even if the references were combined, none of the prior art references, alone or in combination, describe or suggest all of the claimed limitations of the present invention:

Wattenberg discloses a graphical mapping of stocks according to their corresponding industry sectors. The map sizes the stocks and sectors in accordance with their respective market caps, and indicates the status of stocks with color shading. Wattenberg does not map sectors in relation to associated geographical regions or corresponding indices, and as such, does not size sectors (or stocks) relative to their respective weighting in an index. (Pages 17-27.)

In contrast, the present invention simultaneously maps financial instruments, sectors, countries, and indices, and sizes sectors according to their respective weights within an index. Claims 1 and 18 require a "financial indicator representing financial activity in a particular geographic region, said financial indicator including a plurality of sectors and each of said sectors including a plurality of financial instruments", "displaying a map, said map including said geographic region", "simultaneously displaying on said geographic region of said map a visual indicator that represents the status of said financial indicator" wherein "each of said plurality of sectors has a size and a weighting in the financial indicator, wherein said size of each of said plurality of sectors is proportional to said weighting of each of said plurality of sectors, respectively". Thus, Wattenberg does not contain at least these limitations of claims 1 and 18 of the present invention. In addition, as stated by the Examiner "Wattenberg does not teach using a geographic orientation in a particular geographic region" (present Office Action, page 3). Moreover, Applicant respectfully brings to the attention of the Examiner that heatmaps, such as those in the Wattenberg reference, are discussed in the Background section of the current Application. As stated in the Application, "prior art heatmaps fail to present financial information using a geographic orientation thereby placing the trader at a disadvantage." (Specification, pg. 4, para. 1).

Wattenberg in view of Marshall does not diminish the unique aspects of the pending claim limitations. Marshall discloses a virtual reality world for conveying financial information. The virtual reality world is bounded by three axes which reflect different non-integer parameters, and contains within in a three-dimensional grid, visual indicators such as geometric shapes which indicate the status of particular financial instruments. (See col. 6, lines 14-55; col. 11, lines 33-59.)

Although Marshall discloses displaying the status of a financial instrument in simultaneous relation to an industry group (i.e., sector), country, and another financial instrument (i.e., financial indicator or index) (Claim 20), Marshall does not teach doing so while simultaneously sizing sectors according to their respective weights within a financial indicator. In fact, the three axis construction of Marshall's virtual reality world teaches away from the sector sizing element of the present invention.

Marshall's three axis virtual reality world necessitates that every cubical zone defined within the three dimensional world be defined by straight lines which each lie a consistent perpendicular distance from the corresponding parallel axis. For example, in a virtual reality world having an x-axis referencing countries, a y-axis referencing sectors, and a z-axis referencing financial indices, all sectors in a certain country "A", and included in a particular index "1", would have the same dimensions along the x-axis and z-axis. Similarly, all countries including a certain sector "a" and corresponding to index 1 would have the same dimensions along the y-axis and z-axis (that of index 1), and all indices corresponding to country A and sector a would have the same dimensions along the x-axis (that of country A) and y-axis (that of sector a).

As such, the virtual reality world cannot freely vary the size and/or shape of sectors in relation to a given country and/or index because each sector's dimensions are constrained by (1) the sector's y-axis dimension in other countries and in relation to other indices, (2) the given country's x-axis dimension in relation to other sectors and indices, and/or (3) the given index's z-

axis dimension in relation to other sectors and countries. In contrast, the present invention can freely size and/or shape each and every sector according to their respective weights within a given index, while mapping those sectors according to the country and/or index to which they correspond.

Claims 1 and 18 require that each sector is sized according to its weighting within the one or more mapped financial indicators. As such, Marshall clearly lacks the limitations of the present invention.

Applicants respectfully bring to the attention of the Examiner that the Examiner has previously stated that Marshall in view of Wattenberg “does not teach each of said plurality of sectors has a size and weighting in the financial indicator, wherein said size of said plurality of sectors is proportional to said weighting of each of said plurality of sectors” (Office Action dated May 19, 2004, page 5).

For the same reasons that Marshall and Wattenberg, either alone or in combination, fail to disclose the limitations of independent claims 1 and 18, they lack the limitations of dependent claims 2-4, 8-21, and 25-34.

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**CONCLUSION**

For the foregoing reasons, allowance of this application is courteously urged.


Claims 1-4, 8-21 and 25-34 are now pending and believed to be in condition for allowance. Applicant respectfully requests that all pending claims be allowed.

Early and favorable action is respectfully requested.

Please apply any credits or excess charges to our deposit account number 50-0521.

Respectfully submitted,

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